



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3074

Introduced 2/8/2010, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

- 30 ILCS 105/5.531 rep.
- 50 ILCS 751/17
- 50 ILCS 751/30 rep.
- 50 ILCS 751/35 rep.

Amends the State Finance Act. Eliminates the Wireless Carrier Reimbursement Fund. Amends the Wireless Emergency Telephone Safety Act. Provides that, on and after the effective date of this Act, the entire wireless carrier surcharge must be deposited into the Wireless Service Emergency Fund (now, \$0.1475 of the \$0.73 surcharge is deposited into the Wireless Carrier Reimbursement Fund and the other \$0.5825 is deposited into the Wireless Service Emergency Fund). Requires the Illinois Commerce Commission, on the effective date of the amendatory Act or as soon as is practical thereafter, to calculate the amount remaining in the Wireless Carrier Reimbursement Fund and to forward that information to the State Treasurer and State Comptroller. Requires the State Comptroller to order transferred and the State Treasurer to transfer the amount remaining in the Wireless Carrier Reimbursement Fund into the Wireless Service Emergency Fund. Repeals provisions concerning the use of moneys deposited into the Wireless Carrier Reimbursement Fund. Effective July 1, 2010.

LRB096 20198 RLJ 35761 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 (30 ILCS 105/5.531 rep.)

5 Section 5. The State Finance Act is amended by repealing  
6 Section 5.531.

7 Section 10. The Wireless Emergency Telephone Safety Act is  
8 amended by changing Sections 17 and 35 as follows:

9 (50 ILCS 751/17)

10 (Section scheduled to be repealed on April 1, 2013)

11 Sec. 17. Wireless carrier surcharge.

12 (a) Except as provided in Section 45, each wireless carrier  
13 shall impose a monthly wireless carrier surcharge per CMRS  
14 connection that either has a telephone number within an area  
15 code assigned to Illinois by the North American Numbering Plan  
16 Administrator or has a billing address in this State. In the  
17 case of prepaid wireless telephone service, this surcharge  
18 shall be remitted based upon the address associated with the  
19 point of purchase, the customer billing address, or the  
20 location associated with the MTN for each active prepaid  
21 wireless telephone that has a sufficient positive balance as of  
22 the last day of each month, if that information is available.

1 No wireless carrier shall impose the surcharge authorized by  
2 this Section upon any subscriber who is subject to the  
3 surcharge imposed by a unit of local government pursuant to  
4 Section 45. Prior to January 1, 2008 (the effective date of  
5 Public Act 95-698), the surcharge amount shall be the amount  
6 set by the Wireless Enhanced 9-1-1 Board. Beginning on January  
7 1, 2008 (the effective date of Public Act 95-698), the monthly  
8 surcharge imposed under this Section shall be \$0.73 per CMRS  
9 connection. The wireless carrier that provides wireless  
10 service to the subscriber shall collect the surcharge from the  
11 subscriber. For mobile telecommunications services provided on  
12 and after August 1, 2002, any surcharge imposed under this Act  
13 shall be imposed based upon the municipality or county that  
14 encompasses the customer's place of primary use as defined in  
15 the Mobile Telecommunications Sourcing Conformity Act. The  
16 surcharge shall be stated as a separate item on the  
17 subscriber's monthly bill. The wireless carrier shall begin  
18 collecting the surcharge on bills issued within 90 days after  
19 the Wireless Enhanced 9-1-1 Board sets the monthly wireless  
20 surcharge. State and local taxes shall not apply to the  
21 wireless carrier surcharge.

22 (b) Except as provided in Section 45, a wireless carrier  
23 shall, within 45 days of collection, remit, either by check or  
24 by electronic funds transfer, to the State Treasurer the amount  
25 of the wireless carrier surcharge collected from each  
26 subscriber. Of the amounts remitted under this subsection prior

1 to January 1, 2008 (the effective date of Public Act 95-698),  
2 and for surcharges imposed before January 1, 2008 (the  
3 effective date of Public Act 95-698) but remitted after January  
4 1, 2008, the State Treasurer shall deposit one-third into the  
5 Wireless Carrier Reimbursement Fund and two-thirds into the  
6 Wireless Service Emergency Fund. For surcharges collected and  
7 remitted on or after January 1, 2008 (the effective date of  
8 Public Act 95-698) and before the effective date of this  
9 amendatory Act of the 96th General Assembly, \$0.1475 per  
10 surcharge collected shall be deposited into the Wireless  
11 Carrier Reimbursement Fund, and \$0.5825 per surcharge  
12 collected shall be deposited into the Wireless Service  
13 Emergency Fund. For surcharges received by the State Treasurer  
14 on or after the effective date of this amendatory Act of the  
15 96th General Assembly, the entire amount of the surcharge shall  
16 be deposited into the Wireless Service Emergency Fund. ~~Of the~~  
17 ~~amounts deposited into the Wireless Carrier Reimbursement Fund~~  
18 ~~under this subsection, \$0.01 per surcharge collected may be~~  
19 ~~distributed to the carriers to cover their administrative~~  
20 ~~costs.~~ Of the amounts deposited into the Wireless Service  
21 Emergency Fund under this subsection, \$0.01 per surcharge  
22 collected may be disbursed to the Illinois Commerce Commission  
23 to cover its administrative costs.

24 On the effective date of this amendatory Act of the 96th  
25 General Assembly or as soon thereafter as is practical, the  
26 Illinois Commerce Commission shall calculate the amount

1 remaining in the Wireless Carrier Reimbursement Fund and inform  
2 the State Treasurer and the State Comptroller of the remaining  
3 moneys in the Wireless Carrier Reimbursement Fund. As soon as  
4 is practical after receiving this information, the State  
5 Comptroller shall order transferred and the State Treasurer  
6 shall transfer the remaining moneys into the Wireless Service  
7 Emergency Fund.

8 (c) The first such remittance by wireless carriers shall  
9 include the number of customers by zip code, and the 9-digit  
10 zip code if currently being used or later implemented by the  
11 carrier, that shall be the means by which the Illinois Commerce  
12 Commission shall determine distributions from the Wireless  
13 Service Emergency Fund. This information shall be updated no  
14 less often than every year. Wireless carriers are not required  
15 to remit surcharge moneys that are billed to subscribers but  
16 not yet collected. Any carrier that fails to provide the zip  
17 code information required under this subsection (c) or any  
18 prepaid wireless carrier that fails to provide zip code  
19 information based upon the addresses associated with its  
20 customers' points of purchase, customers' billing addresses,  
21 or locations associated with MTNs, as described in subsection  
22 (a) of this Section, shall be subject to the penalty set forth  
23 in subsection (f) of this Section.

24 (d) Within 90 days after August 13, 2007 (the effective  
25 date of Public Act 95-63), each wireless carrier must implement  
26 a mechanism for the collection of the surcharge imposed under

1 subsection (a) of this Section from its subscribers. If a  
2 wireless carrier does not implement a mechanism for the  
3 collection of the surcharge from its subscribers in accordance  
4 with this subsection (d), then the carrier is required to remit  
5 the surcharge for all subscribers until the carrier is deemed  
6 to be in compliance with this subsection (d) by the Illinois  
7 Commerce Commission.

8 (e) If before midnight on the last day of the third  
9 calendar month after the closing date of the remit period a  
10 wireless carrier does not remit the surcharge or any portion  
11 thereof required under this Section, then the surcharge or  
12 portion thereof shall be deemed delinquent until paid in full,  
13 and the Illinois Commerce Commission may impose a penalty  
14 against the carrier in an amount equal to the greater of:

15 (1) \$25 for each month or portion of a month from the  
16 time an amount becomes delinquent until the amount is paid  
17 in full; or

18 (2) an amount equal to the product of 1% and the sum of  
19 all delinquent amounts for each month or portion of a month  
20 that the delinquent amounts remain unpaid.

21 A penalty imposed in accordance with this subsection (e)  
22 for a portion of a month during which the carrier provides the  
23 number of subscribers by zip code as required under subsection  
24 (c) of this Section shall be prorated for each day of that  
25 month during which the carrier had not provided the number of  
26 subscribers by zip code as required under subsection (c) of

1 this Section. Any penalty imposed under this subsection (e) is  
2 in addition to the amount of the delinquency and is in addition  
3 to any other penalty imposed under this Section.

4 (f) If, before midnight on the last day of the third  
5 calendar month after the closing date of the remit period, a  
6 wireless carrier does not provide the number of subscribers by  
7 zip code as required under subsection (c) of this Section, then  
8 the report is deemed delinquent and the Illinois Commerce  
9 Commission may impose a penalty against the carrier in an  
10 amount equal to the greater of:

11 (1) \$25 for each month or portion of a month that the  
12 report is delinquent; or

13 (2) an amount equal to the product of 1/2¢ and the  
14 number of subscribers served by the wireless carrier.

15 A penalty imposed in accordance with this subsection (f)  
16 for a portion of a month during which the carrier pays the  
17 delinquent amount in full shall be prorated for each day of  
18 that month that the delinquent amount was paid in full. Any  
19 penalty imposed under this subsection (f) is in addition to any  
20 other penalty imposed under this Section.

21 (g) The Illinois Commerce Commission may enforce the  
22 collection of any delinquent amount and any penalty due and  
23 unpaid under this Section by legal action or in any other  
24 manner by which the collection of debts due the State of  
25 Illinois may be enforced under the laws of this State. The  
26 Executive Director of the Illinois Commerce Commission, or his

1 or her designee, may excuse the payment of any penalty imposed  
2 under this Section if the Executive Director, or his or her  
3 designee, determines that the enforcement of this penalty is  
4 unjust.

5 (h) Notwithstanding any provision of law to the contrary,  
6 nothing shall impair the right of wireless carriers to recover  
7 compliance costs for all emergency communications services  
8 ~~that are not reimbursed out of the Wireless Carrier~~  
9 ~~Reimbursement Fund~~ directly from their customers via line-item  
10 charges on the customer's bill. Those compliance costs include  
11 all costs incurred by wireless carriers in complying with  
12 local, State, and federal regulatory or legislative mandates  
13 that require the transmission and receipt of emergency  
14 communications to and from the general public, including, but  
15 not limited to, E-911.

16 (i) The Auditor General shall conduct, on an annual basis,  
17 an audit of the Wireless Service Emergency Fund ~~and the~~  
18 ~~Wireless Carrier Reimbursement Fund~~ for compliance with the  
19 requirements of this Act. The audit shall include, but not be  
20 limited to, the following determinations:

21 (1) Whether the Commission is maintaining detailed  
22 records of all receipts and disbursements from the Wireless  
23 Carrier Emergency Fund ~~and the Wireless Carrier~~  
24 ~~Reimbursement Fund~~.

25 (2) Whether the Commission's administrative costs  
26 charged to the funds are adequately documented and are

1 reasonable.

2 (3) Whether the Commission's procedures for making  
3 grants and providing reimbursements in accordance with the  
4 Act are adequate.

5 (4) The status of the implementation of wireless 9-1-1  
6 and E9-1-1 services in Illinois.

7 The Commission, the Department of State Police, and any  
8 other entity or person that may have information relevant to  
9 the audit shall cooperate fully and promptly with the Office of  
10 the Auditor General in conducting the audit. The Auditor  
11 General shall commence the audit as soon as possible and  
12 distribute the report upon completion in accordance with  
13 Section 3-14 of the Illinois State Auditing Act.

14 (Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; 95-876,  
15 eff. 8-21-08.)

16 (50 ILCS 751/30 rep.)

17 (50 ILCS 751/35 rep.)

18 Section 15. The Wireless Emergency Telephone Safety Act is  
19 amended by repealing Sections 30 and 35.

20 Section 99. Effective date. This Act takes effect July 1,  
21 2010.